

1 The opinion in support of the decision being entered today was *not* written
2 for publication and is *not* binding precedent of the Board

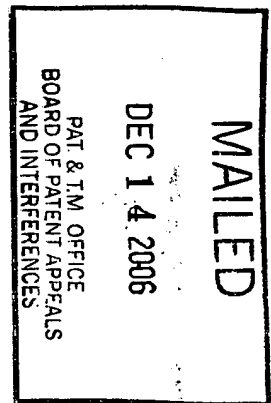
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4 UNITED STATES PATENT AND TRADEMARK OFFICE

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7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES
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11 *Ex parte* DAVID A. RUSSO, RYAN R. DIRKX
12 and GLENN P. FLORCZAK
13

14
15 Appeal 2006-2684
16 Application 08/544,212
17 Technology Center 1700
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20 Appeal 2006-2747
21 Application 09/287,664
22 Technology Center 1700
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25 *Before: McKELVEY, Senior Administrative Patent Judge.*
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27 Interlocutory Order

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29 1. Background

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31 The appeals are consolidated and are before a panel of the Board of
32 Patent Appeals and Interferences for decision on the merits of appeals from
33 decisions of the Primary Examiner.

34 In APPELLANTS' BRIEF ON APPEAL PURSUANT TO 37 C.F.R.
35 § 1.192 filed 30 December 2002 in application 08/544,212 (page 19)
36 (Appeal 2006-2684), Appellants suggest that if claims are allowable, an

1 interference should be declared between the application on appeal and three
2 patents owned by PPG Industries, Inc. The patents are:

3 (1) U.S. Patent 5,776,236;

4 (2) U.S. Patent 5,599,387 (misidentified as 5,559,387 in the
5 brief); and

6 (3) U.S. Patent 5,356,718.

7 In order for the Patent and Trademark Office to determine whether an
8 interference may be appropriate, appellants must first comply with the
9 requirements of 37 CFR § 41.202(a) (2006). In addition, appellants must
10 establish why the claims sought to be placed in the interference are not
11 barred under 35 U.S.C. § 135(b). Lastly, appellants must comply with the
12 requirements of 37 CFR § 41.202(d) (2006).

13 Appellants are advised that the paper file for U.S. Patent 5,356,718
14 appears to be lost. If appellants have a copy of the file, appellants are
15 requested to have the copy hand-delivered to the Trial Division.

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17 2. Order

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19 Upon consideration of the record, and for the reasons given, it is
20 ORDERED that on or before **31 January 2007**, appellants shall
21 comply with the requirements set out in this INTERLOCUTORY ORDER.

FURTHER ORDERED that all evidence which appellants wish to have considered in connection with a determination whether an interference should be declared shall accompany any response to this INTERLOCUTORY ORDER.

/ss/ Fred E. McKelvey)
FRED E. McKELVEY)
Senior Administrative Patent Judge)

Entered at:

Kailua, HI

14 December 2006

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